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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

JOHANNA HERNANDEZ, ) Case No.  
individually and on behalf of all others )  
similarly situated, ) **CLASS ACTION**  
Plaintiff, )  
vs. )  
NAVIENT SOLUTIONS, INC., )  
Defendant. )  
1. NEGLIGENT VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]  
2. WILLFUL VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]  
**DEMAND FOR JURY TRIAL**  
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Plaintiff Johanna Hernandez (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

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2 **NATURE OF THE CASE**

3 1. Plaintiff brings this action individually and on behalf of all others  
 4 similarly situated seeking damages and any other available legal or equitable  
 5 remedies resulting from the illegal actions of NAVIENT SOLUTIONS, INC.  
 6 (“Defendant”) in negligently, knowingly, and/or willfully contacting Plaintiff on  
 7 Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection  
 8 Act, *47. U.S.C. § 227 et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

9 **JURISDICTION & VENUE**

10 2. Jurisdiction is proper under *28 U.S.C. § 1332(d)(2)* because Plaintiff,  
 11 a resident of California, seeks relief on behalf of a Class, which will result in at  
 12 least one class member belonging to a different state than that of Defendant, a  
 13 company with its State of incorporation in Delaware. Plaintiff also seeks up to  
 14 \$1,500.00 in damages for each call in violation of the TCPA, which, when  
 15 aggregated among a proposed class in the thousands, exceeds the \$5,000,000.00  
 16 threshold for federal court jurisdiction. Therefore, both diversity jurisdiction and  
 17 the damages threshold under the Class Action Fairness Act of 2005 (“CAFA”) are  
 18 present, and this Court has jurisdiction.

19 3. Venue is proper in the United States District Court for the Central  
 20 District of California pursuant to *18 U.S.C. 1391(b)* and *18 U.S.C. § 1441(a)*  
 21 because Defendant does business within the State of California, in the County of  
 22 Orange, and within the Central District of California.

23 **PARTIES**

24 4. Plaintiff, Johanna Hernandez (“Plaintiff”), is a natural person  
 25 residing in Santa Ana, California and is a “person” as defined by *47 U.S.C. § 153*  
 26 (*10*).

27 5. Defendant, Navient Solutions, Inc. (“Defendant”), is a leader in  
 28 offering various types of student and consumer loans and is a “person” as defined

1 by 47 U.S.C. § 153 (10).

2 **FACTUAL ALLEGATIONS**

3 6. Beginning in and around April of 2015, Defendant contacted  
4 Plaintiff on her cellular telephone number ending in -0825, in an attempt to  
5 collect an alleged outstanding debt.

6 7. The telephone calls placed by Defendant to Plaintiff were so  
7 numerous and frequent that Plaintiff was forced to block Defendant's harassing  
8 telephone calls.

9 8. In its efforts to collect an alleged debt owed, Defendant used an  
10 "automatic telephone dialing system", as defined by 47 U.S.C. § 227(a)(1) to  
11 place its daily calls to Plaintiff.

12 9. Defendant's calls constituted calls that were not for emergency  
13 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

14 10. Defendant's calls were placed to telephone number assigned to a  
15 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
16 pursuant to 47 U.S.C. § 227(b)(1).

17 11. Defendant never possessed Plaintiff's "prior express consent" to  
18 receive calls using an automatic telephone dialing system or an artificial or  
19 prerecorded voice on her cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

20 **CLASS ALLEGATIONS**

21 12. Plaintiff brings this action individually and on behalf of all others  
22 similarly situated, as a member of the proposed class (hereafter "The Class")  
23 defined as follows:

24 All persons within the United States who received any  
25 collection telephone calls from Defendant to said  
26 person's cellular telephone made through the use of any  
27 automatic telephone dialing system or an artificial or  
28 prerecorded voice and such person had not previously  
consented to receiving such calls within the four years

1 prior to the filing of this Complaint  
2

3 13. Plaintiff represents, and is a member of, The Class, consisting of All  
4 persons within the United States who received any collection telephone calls from  
5 Defendant to said person's cellular telephone made through the use of any  
6 automatic telephone dialing system or an artificial or prerecorded voice and such  
7 person had not previously not provided their cellular telephone number to  
8 Defendant within the four years prior to the filing of this Complaint.

9 14. Defendant, its employees and agents are excluded from The Class.  
10 Plaintiff does not know the number of members in The Class, but believes the  
11 Class members number in the thousands, if not more. Thus, this matter should be  
12 certified as a Class Action to assist in the expeditious litigation of the matter.

13 15. The Class is so numerous that the individual joinder of all of its  
14 members is impractical. While the exact number and identities of The Class  
15 members are unknown to Plaintiff at this time and can only be ascertained  
16 through appropriate discovery, Plaintiff is informed and believes and thereon  
17 alleges that The Class includes thousands of members. Plaintiff alleges that The  
18 Class members may be ascertained by the records maintained by Defendant.

19 16. Plaintiff and members of The Class were harmed by the acts of  
20 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
21 and Class members via their cellular telephones thereby causing Plaintiff and  
22 Class members to incur certain charges or reduced telephone time for which  
23 Plaintiff and Class members had previously paid by having to retrieve or  
24 administer messages left by Defendant during those illegal calls, and invading the  
25 privacy of said Plaintiff and Class members.

26 17. Common questions of fact and law exist as to all members of The  
27 Class which predominate over any questions affecting only individual members  
28 of The Class. These common legal and factual questions, which do not vary  
between Class members, and which may be determined without reference to the

1 individual circumstances of any Class members, include, but are not limited to,  
2 the following:

- 3 a. Whether, within the four years prior to the filing of this  
4 Complaint, Defendant made any collection call (other than a  
5 call made for emergency purposes or made with the prior  
6 express consent of the called party) to a Class member using  
7 any automatic telephone dialing system or any artificial or  
8 prerecorded voice to any telephone number assigned to a  
9 cellular telephone service;
- 10 b. Whether Plaintiff and the Class members were damages  
11 thereby, and the extent of damages for such violation; and
- 12 c. Whether Defendant should be enjoined from engaging in such  
13 conduct in the future.

14 18. As a person that received numerous collection calls from Defendant  
15 using an automatic telephone dialing system or an artificial or prerecorded voice,  
16 without Plaintiff's prior express consent, Plaintiff is asserting claims that are  
17 typical of The Class.

18 19. Plaintiff will fairly and adequately protect the interests of the  
19 members of The Class. Plaintiff has retained attorneys experienced in the  
20 prosecution of class actions.

21 20. A class action is superior to other available methods of fair and  
22 efficient adjudication of this controversy, since individual litigation of the claims  
23 of all Class members is impracticable. Even if every Class member could afford  
24 individual litigation, the court system could not. It would be unduly burdensome  
25 to the courts in which individual litigation of numerous issues would proceed.  
26 Individualized litigation would also present the potential for varying, inconsistent,  
27 or contradictory judgments and would magnify the delay and expense to all  
28 parties and to the court system resulting from multiple trials of the same complex

factual issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

21. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other Class members not parties to such adjudications or that would substantially impair or impede the ability of such non-party Class members to protect their interests.

22. Defendant has acted or refused to act in respects generally applicable to The Class, thereby making appropriate final and injunctive relief with regard to the members of The Class as a whole.

## **FIRST CAUSE OF ACTION**

## Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

23. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-22.

24. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

25. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

26. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

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## **SECOND CAUSE OF ACTION**

## **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

47 U.S.C. §227 et seq.

27. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-22.

28. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

29. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

30. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

## **FIRST CAUSE OF ACTION**

## **Negligent Violations of the Telephone Consumer Protection Act**

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*.
  - Any and all other relief that the Court deems just and proper.

## **SECOND CAUSE OF ACTION**

## **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
  - Any and all other relief that the Court deems just and proper.

Respectfully Submitted this 17<sup>th</sup> day of June, 2015.

## LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman  
Todd M. Friedman  
Law Offices of Todd M. Friedman  
Attorney for Plaintiff